

Senate Budget & Fiscal Review

Senator Wesley Chesbro, Chair



Subcommittee No. 3
on
Health, Human Services, Labor, and Veterans Affairs

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Room 4203

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4200 Department of Alcohol and Drug Programs

The Department of Alcohol and Drug Programs (DADP) receives and disburses federal and state alcohol and drug funds to plan, develop, implement and evaluate a statewide system for alcohol and other drug intervention, prevention, detoxification, treatment and recovery services. The Department is the lead agency in the implementation of Proposition 36 (the Substance Abuse and Crime Prevention Act of 2000). In FY 2004-05 the Department estimates that, through its county partners, services will be delivered to 395,700 persons. Appropriations in the budget year decrease by \$6.5 million.

Summary of Expenditures

(dollars in thousands)	2003-04	2004-05	\$ Change	% Change
<i>Program Funding</i>				
Prevention	70,988	67,816	-3,172	-4.5
Treatment and Recovery	480,168	476,672	-3,496	-0.7
Perinatal	46,623	46,823	200	0.4
<i>Source of Funding</i>				
General Fund	113,200	117,793	4,593	4.1
Federal Trust Fund	284,356	279,810	-4,546	-1.6
Reimbursements	73,861	70,601	-3,260	-4.4
Substance Abuse Treatment Trust Fund	120,487	120,232	-255	-0.2
Special Funds	5,875	2,875	-3,000	-51.1
Total	\$597,779	\$591,311	-\$6,468	-1.1

VOTE ONLY ITEMS

1. Performance Partnership Grants

Background: The federal Children's Health Act of 2000 **requires the Federal Secretary of Health and Human Services to develop a plan to provide state flexibility and establish accountability measures that are based on outcomes and other performance measures.** The Act designates substance abuse prevention and treatment programs among those to operate under the new Performance Partnership Grants (PPG).

Under the new PPG system, **states will be required to measure performance on core indicators including alcohol use, all other drug use, criminal justice involvement, employment, pregnant addicts, HIV transmission, Tuberculosis and co-occurring disorders.** States will also develop and negotiate two to ten unique performance measures and associated outcome targets. **It is unclear if and when federal program funding will be based on program outcomes.**

California has begun the process of evaluating its program and planning for the implementation of PPGs. State planning activities include reviewing current systems, programs, regulatory and statutory schemes to assure they are consistent with the new system, and developing a process to establish state performance measures and outcome targets. The state is also evaluating fiscal and program processes to assure they are consistent with the new system.

Governor's Budget: The budget provides a \$260,000 federal SAPT funding augmentation and establishes 3 new positions to evaluate, plan and implement the federal Performance Partnership Grants.

Budget issue: Does the Subcommittee wish to maintain the proposed augmentation and to approve the requested positions to implement the Performance Partnership Grants?

2. Screening, Brief Intervention, Referral and Treatment Grant

Background: The Department of Alcohol and Drug Programs applied for and was awarded a **federal grant to support the delivery of screening, intervention and treatment services to emergency room and trauma patients.** Federal funding will support the expansion of a San Diego County screening, intervention and referral services program to include treatment services and will fund similar programs in three other counties. Program services will be directed to emergency room and trauma patients, as substance abuse rates tend to be higher among these patients. **The five-year program is expected to reduce drug use among nondependent users by 25 percent and to reduce alcohol consumption for 50 percent of nondependent drinkers.**

Governor's Budget: The budget provides a **\$3.5 million federal funding increase** to support the delivery of alcohol and drug screening, intervention, referral and treatment services to adult patients in medical settings across four counties.

Budget issue: Does the Subcommittee wish to maintain the proposed **\$3.5 million federal funding increase** to deliver alcohol and drug intervention and treatment services to nondependent users?

DISCUSSION ITEMS:

1. Drug Medi-Cal

Background: The Drug Medi-Cal program provides specified substance abuse treatment services to low-income parents, children, seniors and persons with disabilities enrolled in the Medi-Cal program. Drug Medi-Cal is overseen by the Department of Alcohol and Drug Programs and administered locally by county alcohol and drug programs, in collaboration with county welfare departments. The program is funded by state and federal matching funds at an approximate ratio of 1 to 1.

In fiscal year 2003-04, Drug Medi-Cal serves approximately 64,100 persons through one of four treatment modalities, Narcotic Treatment Program, Day Care Rehabilitative, Outpatient Drug Free, and Perinatal Substance Abuse Services. The treatment modalities include the following specific services:

- **Narcotics Treatment Program** provides narcotic replacement drugs, treatment planning, body specimen screening, substance abuse related physician and nurse services, counseling, annual physical examinations, laboratory tests and medication services to person who are opiate addicted and have substance abuse diagnosis. The program does not provide detoxification treatment.
- **Day Care Rehabilitative** provides specific outpatient counseling and rehabilitation services to persons with substance abuse diagnosis who are pregnant, in the postpartum period, and/or are youth eligible for Early and Periodic Screening, Diagnosis and Treatment.
- **Outpatient Drug Free** provides admission physical examinations, medical direction, medication services, treatment and discharge planning, body specimen screening, limited counseling, and collateral services to stabilize and rehabilitate persons with a substance abuse diagnosis.
- **Perinatal Substance Abuse Services** is a non-institutional, non-medical residential program that provides certain rehabilitation services to pregnant and postpartum women with a substance abuse diagnosis.

Governor's Budget: The budget increases funding for the Drug Medi-Cal program by \$5.4 million (\$3.1 million General Fund) to \$109.6 million. The proposed program funding increase reflects a reduction in the level of federal financial participation, cost increases and small caseload increases.

Issue A – Legislative Analyst's Review of Drug Medi-Cal Program

Background: The *Supplemental Report of the 2002-03 Budget Act* directed the Legislative Analyst's Office to examine the Drug Medi-Cal Program and consider barriers to provider participation and beneficiary access. The Legislature sought to better understand the programmatic factors that contribute to low utilization of substance abuse treatment services, particularly among women and children. The *Supplemental Report* directed the LAO to consider options to improve access to care and to maximize federal financial participation for substance abuse treatment services.

The Legislative Analyst's Office concluded its review and released the required report on February of 2004. **The LAO found significant inconsistencies in the resources provided to support different modes of treatment**, with most resources concentrated on methadone treatment. The LAO notes that the higher level of spending on methadone treatment followed the *Sobky v. Smoley* court challenge, where the state was required to make programmatic changes to increase access to narcotic treatment services for Medi-Cal beneficiaries.

The LAO reports that **a disproportionately small share of the Drug Medi-Cal budget is spent on services for women and children** and that there are significant variations in the availability of Drug Medi-Cal services across counties. These two findings are of concern, as federal Medicaid law requires the state to provide children all services necessary to resolve or ameliorate conditions found in their annual health assessments, and generally requires that Medi-Cal services be uniformly available across the state.

In addition to their findings regarding disparate access to treatment across Medi-Cal beneficiary groups, **the LAO finds that the state is failing to take full advantage of available federal support for community substance abuse treatment services.** The LAO states that California is incurring substantial costs for the hospitalization of Medi-Cal beneficiaries whose substance abuse problems have gone untreated and makes a series of recommendations to improve access to treatment services.

The Legislative Analyst's Office recommends that by the 2006-07 fiscal year, California make the following changes to increase access to alcohol and other drug treatment services for Medi-Cal beneficiaries:

- Shift state funding allocations for drug or alcohol treatment services to counties and make counties responsible for the nonfederal share of funding for Drug Medi-Cal services (except narcotics treatment).
- Increase county flexibility in service delivery while maintaining the state role of administering federal rules, setting and enforcing health and safety standards, and providing statewide leadership for the treatment system.

LAO recommends the following changes to contain costs of Methadone treatment:

- Shift funding and responsibility for narcotic treatment programs to the state, to facilitate direct contracting for treatment services between the state and providers.
 - Review state licensing and certification rules to reduce duplication and associated costs. LAO cites regulations that limit clients' ability to take medications home, and restrictions on dispensing methadone in physicians' offices among those to revisit.
 - Revise the rate setting system for methadone providers to create incentives for increased efficiency and cost effectiveness.
 - Conduct an external review of cases where clients receive methadone maintenance for extended periods of time.
 - Screen clients for eligibility for treatment by the federal Veterans Administration health system.
 - Make statutory and regulatory changes to integrate buprenorphine as a treatment method. Recently approved by federal authorities as a treatment method for heroin and other opiate addictions, buprenorphine can be distributed in tablet form through the offices of qualified physicians. The cost per dose for buprenorphine is higher than for methadone, but the duration of treatment tends to be shorter for buprenorphine.
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The Department of Alcohol and Drug Programs believes the LAO's suggestions need further discussion, evaluation and deliberation. The DADP believes that input from key DMC program stakeholders such as counties, providers, and Department of Health Services, HHS Agency, and the Administration is necessary to understand the full impact of the LAO recommendations and to evaluate their feasibility.

The DADP is still analyzing the LAO report on Drug Medi-Cal and preparing its response. The DADP is concerned about how realignment could impact or otherwise jeopardize the maintenance-of-effort (MOE) requirement for the SAPT block grant. The Department comments that a wholly state-administered Narcotics Treatment program could require significant cost and staffing increases for DADP administration and oversight. Lastly, DADP believes that there are limitations to the state's ability to realize savings by referring veterans to the Veterans Administration (VA) for treatment as VA facilities may be limited in availability or treatment capacity and providers may be unwilling to refer clients eligible for publicly-funded treatment in their program to another program.

Subcommittee request: The Subcommittee has requested that the Legislative Analyst's Office briefly present the findings and recommendations of their report. The Subcommittee has also requested that the Department of Alcohol and Drug Programs present their response and comments to the LAO report.

Budget issue: Does the Subcommittee wish to adopt the proposed level of funding for the Drug Medi-Cal program? Does the Subcommittee wish to make changes to the program?

2. Substance Abuse Prevention and Treatment Block Grant

Background: California applies for, and receives on an annual basis, federal Substance Abuse Prevention and Treatment (SAPT) Block Grant funds from the Substance Abuse and Mental Health Services Administration to support substance abuse prevention and treatment services. For Federal Fiscal Year (FFY) 2003 the grant award amount is \$251,851,368. SAPT funds must be used to plan, carry out, and evaluate activities to prevent and treat substance abuse. In California, SAPT funding supports all treatment modalities and prevention activities.

The following chart illustrates SAPT budgeted expenditures for fiscal year 2004-05:

	SAPT REQUIREMENTS	TOTAL BUDGETED FUNDS
PREVENTION 20% SET-ASIDE	\$50,370,274	\$50,440,875
HIV 5% SET-ASIDE	\$12,592,568	\$12,592,568
WOMEN'S REQUIREMENT	\$15,554,000	\$17,054,000
YOUTH FUNDING	\$0	\$7,416,417
STATE SUPPORT	\$0	\$18,050,000
DISCRETIONARY	\$0	\$146,297,508
TOTAL SAPT AWARD		\$251,851,368

As a condition of receiving SAPT Block Grant funds, California must comply with a maintenance of effort (MOE) requirement. California must maintain state expenditures for substance abuse prevention and treatment services at a level equal to or higher than the average state expenditures for the preceding two state fiscal years.

The state must also maintain an MOE for pregnant and parenting women. Funding for substance abuse treatment services for pregnant women and women with dependent children must be at least \$26.349 million of which not less than \$15.554 million must be from SAPT Block Grant funds.

The state must meet an MOE for tuberculosis services, which is at least \$237,200.

Lastly, there is an MOE for HIV Early Intervention Services. The State must maintain state expenditures for HIV Early Intervention Services at \$2,050,000. In the FFY 2003 SAPT Block Grant application, state expenditures for HIV Early Intervention services were \$11,213,000.

Failure to meet the MOE requirement results in a dollar of federal funds lost for every dollar below the amount required for the MOE. The total MOE for 2004-05 is \$252.3 million, which is \$2.1 million over the MOE requirement of \$250.2. The MOE is not a fixed amount that is changed through policy actions. It is a reflection of non-federal funds expended by the state for grant eligible activities.

As a result of reductions in current year General Fund expenditures for substance abuse treatment programs, the state may not meet the SAPT MOE requirement. The budget reflects a proposed decrease in General Fund spending of \$2.2 million below the amount appropriated in the *2003-04 Budget Act*, which is \$3.2 million below the federally required level of spending. This reduction of General Fund expenditures in the current year puts the state at risk of losing \$3.2 million of its future SAPT allocation.

Subcommittee request and questions: The Subcommittee has requested that the Department of Alcohol and Drug Programs answer the following questions:

1. What is the likelihood that California will not meet the SAPT MOE in the current year and that the state will incur a federal penalty?
 2. Please describe the existing process to establish county priorities for SAPT funding. Do counties consider cost effectiveness to the state or to counties when establishing priorities for SAPT funding?
 3. Please describe who receives SAPT funded services and how the SAPT population compares to the population receiving Drug Medi-Cal or Proposition 36 services.
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3. Substance Abuse and Crime Prevention Act (SACPA)

Background: In November 2000, California voters approved Proposition 36, the Substance Abuse and Crime Prevention Act (SACPA), to provide substance abuse treatment instead of incarceration to non-violent drug offenders. SACPA changed state sentencing laws, effective July 1, 2001, to require adult offenders convicted of nonviolent drug possession to be sentenced to probation and drug treatment instead of prison, jail or probation without treatment. The Act excludes offenders who refuse treatment or who are found by the courts to be “unamenable to treatment”. The Act further requires that parolees with no history of violent convictions who commit a non-violent drug offense or violate a drug-related condition of parole be required to complete drug treatment in the community, rather than being returned to state prison.

SACPA requires that the state provide \$120 million annually through 2005-06, to be deposited to a new Substance Abuse Treatment Trust Fund, and distributed to counties to pay for the costs of treatment and related programs. Funds may be used for substance abuse assessment, treatment, vocational training, family counseling, literacy training, probation supervision and court monitoring of offenders.

Since the passage of SACPA, the Department of Alcohol and Drug Programs, the Judicial Council, the Department of Corrections, counties and other stakeholders from the public safety and alcohol and drug treatment communities have worked collaboratively to implement the proposition in an expedited manner. **California has implemented the new law in all counties and has significantly expanded available substance abuse treatment services.** Preliminary data suggests that the new law has significantly increased access to substance abuse services for non-violent drug offenders.

The University of California, Los Angeles (UCLA) is conducting a five-year evaluation of the Substance Abuse and Crime Prevention Act (SACPA) and reports the following findings regarding the first year of SACPA implementation:

- 53,697 offenders were found to be eligible for SACPA. Of them, 82% (44,043) chose SACPA and most were referred for an assessment of their service needs and appropriate level of community supervision.
 - **69% of offenders who opted for SACPA in court entered treatment.** This “show” rate compares favorably with “show” rates in other studies of drug users referred to treatment by criminal justice or other sources.
 - About 50% of SACPA offenders in treatment reported methamphetamine as their drug of choice, with cocaine/crack a distant second (15%). Marijuana and heroin were the primary drug problem for 12% and 11%, respectively. SACPA clients had longer drug use histories than non-SACPA clients referred to treatment by criminal justice.
 - Most SACPA clients (72%) were men. About half of SACPA clients were non-Hispanic Whites, while 31% were Hispanics and 14% were African Americans.
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- Most SACPA clients (86%) were placed in outpatient drug-free programs, and 10% were placed in long-term residential programs. **This was the first drug treatment opportunity for over half of all SACPA clients.**
- Almost all (85%) of the SACPA clients who entered outpatient drug-free programs received at least 30 days of treatment. Most outpatient drug-free clients (65%) were in treatment for at least 90 days, as were 43% of long-term residential clients. These rates of treatment duration were similar to the rates seen among non-SACPA clients.

Implementation

SACPA required substantial collaboration among criminal justice, treatment, and county administrators and reportedly added to their workloads. County representatives expressed concern regarding the sufficiency of SACPA funding across years. This concern applied especially to the cost of services required by “high need” offenders, who entered SACPA in greater numbers than expected. Counties have been able to bring local agencies together for planning and administration; coordination of assessment, treatment, and supervision of offenders; staff training; and problem solving. At the end of SACPA’s first year, most county representatives reported favorable views of SACPA implementation.

Successful strategies

There was considerable innovation in strategies used to manage SACPA offenders. Three strategies were associated with higher “show” rates at assessment: placing probation and assessment staff at the same location, allowing “walk in” assessment, and requiring only one visit to complete an assessment. Handling SACPA offenders in a drug court approach was strongly related to higher “show” rates at treatment.

Governor’s Budget: The budget provides \$120 million in funding for implementation of SACPA. An additional \$8.6 million in federal funds is provided by the Department for drug testing.

Subcommittee request and questions: The Subcommittee has requested that the Department of Alcohol and Drug Programs answer the following questions:

1. Please provide a brief update on the status of SACPA implementation.
2. Please discuss your proposed changes to the funding allocation methodology.
3. Briefly discuss who is being served by SACPA and how they compare to other treatment populations. Also discuss initial program outcome data, including the rate of client participation in treatment services.
4. Has the role of drug courts changed since implementation of SACPA? How have counties integrated Adult Drug Court Programs and SACPA programs?

4. Dependency Drug Courts

Background: California’s drug court programs work to reduce drug usage and recidivism through the provision of court supervised substance abuse treatment. They integrate drug treatment with other rehabilitation services to promote long-term

recovery and reduce social and financial costs of substance abuse. Judges modify program services based on client needs and exercise different enforcement options to assure client compliance with treatment. Drug courts are diverse and serve different populations. Generally, **drug court clients have abused alcohol or other drugs for ten or more years and received little or no substance abuse treatment.**

Dependency drug courts work to reduce foster care costs and increase permanency for children by providing substance abuse treatment to parents who are involved in dependency court cases. California currently funds three dependency drug courts through the Comprehensive Drug Court Implementation Program. The DADP reports the following outcomes from Dependency Drug Court programs:

- 29 percent of participants successfully completed the program;
- 21 percent were compliant with, or completed the reunification plan;
- 193 participants' dependents were unified with one or both parents, and avoided 10,205 days in foster care or guardianship; and
- 96 percent of drug tests administered were negative and 91 percent of babies born to female participants were drug-free

Last year, the Subcommittee heard testimony from the Department of Social Services regarding outcomes of the Substance Abuse Recovery Management System (SARMS), San Diego's dependency drug court. An independent evaluation of SARMS found that:

- **SARMS families were more likely to be reunified and were reunified in a shorter period of time.** 58% of families in SARMS were reunified compared to 40% of families in the comparison group. SARMS families were reunified in 8 months, half the time to reunification of the comparison group.
- **Time to permanency in unsuccessful reunification cases was shorter for SARMS cases.** An alternative permanency plan was ordered in 17 months for SARMS cases and 45 months for comparison group cases.
- **Under SARMS children had considerably shorter stays in out of home care.** 14 months for SARMS to 46 months for the comparison group.
- Subsequent removals and subsequent substantiated child abuse reports were less common among SARMS participants. Subsequent removals occurred in 20% of SARMS families compared to 35% in comparison group families. The incidence of subsequent substantiated child abuse reports was 24% in SARMS and Dependency Drug Court cases and 46% in comparison group cases.

Sacramento County's dependency drug court has also increased access to substance abuse treatment for parents of children involved in the Child Welfare Services system and has achieved foster care savings. Sacramento's Dependency Drug Court (DDC) began on October 1, 2001, as means to promote and support recovery and the reunification process.

Critical components of Sacramento's DDC are:

- Prompt assessment and placement in treatment services;
- A full continuum of alcohol and drug treatment services;
- Intensive case management provided by the STARS program;
- Drug Court hearings at 30, 60, and 90 day intervals to monitor compliance and ensure accountability for all parents with alcohol and drug problems; and
- Timely use of incentives and progressive sanctions.

During the first two years, 535 parents participated in Sacramento's program. As of January 31, 2004, 311 parents have received certificates for 90 days continuous compliance and 133 parents have graduated with 180 days continuous compliance. Participant characteristics were as follows:

- 69% were mothers with an average age of 32;
 - 80% were unemployed and 47% had less than a high school diploma or GED;
 - 22% were homeless and 13% had chronic mental illness; and
 - 47% used methamphetamine as a primary drug followed by alcohol at 22%.
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- **More parents participated in substance abuse treatment.** 85% of parents with DDC involvement and 23% of the comparison group entered substance abuse treatment. 66% of parents with DDC involvement successfully completed treatment within 12 months.
 - **More children reunified.** 33% of the DDC children and 19% of comparison children reunified, creating a cost savings of \$2,141,056.
 - **Children reunified faster.** DDC children reunified in 5.6 months and comparison children reunified in 7 months, creating foster care savings of \$2,873 per child and overall program savings of \$413,712.
 - **Children had shorter stays in foster care.** The average length of stay in foster care for children in DDC was 10.3 months versus 22.8 months for the comparison group.
 - Eleven infants were born substance free the first year of Dependency Drug Court.

Given estimates that 60 to 80 percent of the state's substantiated cases of child abuse and 60 to 80 percent of foster care cases involve substance abuse, the state will likely benefit from treatment modalities that effectively reduce the incidence of substance abuse among parents involved in dependency court.

Subcommittee request and questions: The Subcommittee has requested that the Department of Alcohol and Drug Programs briefly describe the Dependency Drug Court component of the Comprehensive Drug Court Implementation Program. The Subcommittee has also requested that a representative from Sacramento County briefly describe the county's Dependency Drug Court program and its outcomes.

Budget issue: Does the Subcommittee wish to take any action to support development of dependency drug courts?

5180 Department of Social Services

The Department of Social Services (DSS) administers a series of programs designed to protect children from abuse, neglect and exploitation; to deliver necessary services to children in out-of-home care; and to support the adoption of children with special needs. These programs serve an average of 334,800 youth each month. The programs are overseen by the Department of Social Services and operated by county welfare departments. The Governor's budget provides \$4.8 billion in combined federal, state and county funds to support children and family services programs.

Summary of Expenditures (dollars in thousands)	2003-04	2004-05	\$ Change	% Change
Program				
Child Welfare Services	2,011,387	2,057,803	46,416	2.3
Foster Care	1,743,818	1,723,211	-20,607	-1.2
Adoption Assistance and Kin-GAP	604,440	669,213	64,773	10.7
Child Abuse Prevention	22,624	26,465	3,841	17.0
Total Program Expenditures	4,382,269	4,476,692	94,423	2.2

VOTE ONLY ITEMS

1. Adoptions Services

Background: The Adoptions program provides a range of services to encourage and facilitate the adoption of children who have been relinquished by their parents or who have become wards of the state due to the termination of parental rights as a result of abuse or neglect. The program is overseen by the state and administered locally by county welfare departments. Program funds seek to maximize the adoption of children in foster care for whom family reunification is not a viable option. In 2002-03, 9,000 children were adopted through Adoption Services.

Governor's Budget: The budget provides \$87.9 million (\$48.1 general fund) to fund the Adoptions Program in the budget year.

Budget issue: Does the Subcommittee wish to approve program funding as budgeted?

2. Kinship Guardianship Assistance Program (KinGAP)

Background: The KinGAP program provides stable guardian placement for children in foster care, who are placed with relatives and for whom the placement is their permanent plan. With the development of the guardianship, the court dependency can be dismissed, and there is no need for continued case supervision by the court or the

local social services department. Similar to the Adoption Assistance Program, **KinGAP provides guardians a monthly payment at the basic foster care rate for which the child would otherwise be eligible.** Children are eligible for KinGAP when they have been living with a relative for at least twelve months. **The budget estimates an average monthly caseload of 14,495 children.** This constitutes a caseload growth rate of 8.3% from the current year to the budget year.

Governor's Budget: The budget for the KinGAP program is estimated to grow by a total of \$7 million, reflecting an increase of 8.2%. The increased funding supports the program's growing caseload. The budget does not assume provision of a cost-of-living adjustment or a cost of doing business increase.

Budget issue: Does the Subcommittee wish to approve KinGAP funding as budgeted?

ITEMS FOR DISCUSSION

1. California Child and Family Services Review and Program Reforms

Background: Last year, California underwent its first federal children and family services review. The review sought to determine whether California adequately protects children from abuse and neglect. **The federal government concluded that California is not operating in substantial conformity in all evaluated outcome areas and five of the seven evaluated factors.** California is in substantial conformity with requirements regarding agency responsiveness to the community and having a statewide information system that meets specified criteria. The review also identified a series of programmatic strengths, including timeliness of initiating investigations of reported maltreatment; providing services to prevent the removal of children; reducing the risk of harm to children; and placing siblings together in foster care. The federal government concluded that **California is not in substantial conformity with the following outcomes:**

- Children are, first and foremost, protected from abuse and neglect.
- Children are safely maintained in their homes whenever possible and appropriate.
- Children have permanency and stability in their living situations.
- The continuity of family relationships and connections is preserved for children.
- Families have enhanced capacity to provide for their children's needs.
- Children receive appropriate services to meet their educational needs.

As required by federal law, California has negotiated a Program Improvement Plan (PIP) with the federal government. The plan outlines steps California will take to improve its outcomes, includes timeframes for achieving improvement, and commits to dozens of specific program performance improvements and thousands of specific action steps. California committed to reduce the incidence of maltreatment for children in foster care from 0.67 percent to 0.53 percent, to increase the number of children who have two

or fewer foster care placements by 3.8 percent, and to improve permanency outcomes by specified percentages.

Since completing PIP negotiations in June 2003, **the Department of Social Services and counties have begun to implement the PIP, to complete the required action steps and to work to achieve the required outcomes.** DSS reports that reductions in state operations have made it difficult for the state to complete all required action steps. DSS is currently seeking federal relief from the volume of required action steps. DSS is not seeking any changes to the specific improvements in outcomes agreed to in the PIP.

In addition to its efforts to negotiate and implement the PIP, **California has been engaged in the development and implementation of a new system, based on federal performance reviews, to measure specific county outcomes.** Assembly Bill 636 (Steinberg) requires California to establish an outcome-based system to evaluate county operations of child welfare services. The new California Child Welfare Outcomes and Accountability System includes web-based reporting of county outcomes, and requires counties to conduct self-assessments and develop system improvement plans. AB 636 is expected to yield county specific plans to improve program performance, thereby contributing to the program improvements the state committed to in the PIP.

The Program Improvement Plan and the new California Child Welfare Outcomes and Accountability System are being implemented in the context a broader programmatic shift to child abuse prevention consistent with Child Welfare Services Redesign. The Department of Social Services recently concluded its three-year CWS Stakeholders Group process, which examined California's child welfare services programs and recommended changes. The group released its CWS Redesign report in September 2003. The Redesign outlines a broad long-term plan to improve the child welfare services system. The plan includes the development of partnerships between CWS agencies and community based organizations, as well as efforts to improve access to preventative services and supportive services for families.

Governor's Budget: The budget provides \$39.3 million in new funding to support implementation of AB 636 - the California Child Welfare Outcomes and Accountability System, the Program Improvement Plan, and to plan for implementation of the Child Welfare Services Redesign. In addition, **the Governor's budget assumes \$72 million (\$20 million General Fund) in savings** resulting from development and implementation of programmatic reforms that shorten the period of time children spend in foster care.

Subcommittee request: The Subcommittee has requested that the Department of Social Services briefly describe the Child Welfare Services reforms currently underway in California; the interactions between the different proposed reforms; and how the PIP, AB 636 and the CWS Redesign will improve outcomes for children and families.

Budget issue: This is an informational item. The proposed augmentations are discussed as separate action items later in the agenda.

2. Child Welfare Services

Background: The Child Welfare Services (CWS) system provides a range of services to protect children from abuse, neglect and exploitation. The services are designed to prevent, help alleviate and remedy the problems that cause abuse, neglect or exploitation of children. The services also work to prevent the unnecessary separation of children from their families; arrange to restore children to homes from which they have been removed; and identify children who should be temporarily or permanently removed from their homes. The CWS system includes Emergency Response, Family Maintenance, Family Reunification and Permanent Placement services.

The Department of Social Services is responsible for oversight of the state's CWS system. County welfare departments administer and operate CWS programs, and deliver program services to children and their families. The DSS and its county partners serve an estimated 174,000 youth each month.

Governor's Budget: The budget provides \$2.1 billion total federal, state and county funds (\$610.3 million General Fund) to support the CWS system. Proposed funding for the Child Welfare Services system is based on 2000-2001 county unit costs and does not include a cost-of-doing business adjustment to local child welfare services providers. **The budget makes the following funding assumptions:**

Issue A - Maintains county unit costs at the 2001-02 funding level.

Governor's Budget: The budget provides \$1.3 billion in total funds for the basic CWS program. It assumes that the CWS caseload remains stable and provides modest increases and decreases to the base allocation to account for caseload changes within each program component. The budget essentially funds counties at their 2001-02 funding levels and calculates costs to maintain each county's prior year social worker funding level. **Counties estimate that maintaining county funding for CWS at the 2001-02 level amounts to a \$23.1 million reduction.**

The budget maintains the "hold harmless" method of budgeting basic CWS costs which maintains each county's prior year social worker funding level regardless of changes in caseload. The hold harmless budgeting method was established during the implementation of the Child Welfare Services Case Management System in response to concerns about the accuracy of the data system's caseload data. The department maintains this budgeting methodology out of its recognition of the significant funding and staffing needs, and the extent of caseworker overburdening in the CWS program.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services briefly answer the following questions:

1. Briefly discuss the proposed basic funding level for CWS and the underlying budgeting methodology.
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2. What has been the programmatic impact of maintaining funding for the CWS program at the 2000-01 cost level?
3. As many county activities are statutorily required, what flexibility do counties have to realize efficiencies and adjust their workload to reflect the actual level of funding?
4. Is the Department proposing to provide any relief to counties commensurate with the suspension of cost of doing business adjustments?

Budget issue: Does the Subcommittee wish to adopt the proposed level of funding for basic CWS program costs?

Issue B - Senate Bill 2030, the CWS Augmentation and Social Worker Training.

Background: Senate Bill 2030 (Costa), Chapter 785 of the Statutes of 1999, required that the Department of Social Services conduct an independent evaluation of the adequacy of the state's child welfare services budgeting methodology, and funded caseload and service levels, and to make recommendations to the Legislature. **The SB 2030 Child Welfare Services Workload Study found that caseworkers were seriously overburdened and carrying much larger caseloads (2 times as many) as were ideal.** The study recommended that California implement minimum caseload standards, devise and implement a staff recruitment plan, as well as revise its budget methodology.

Assembly Bill 2876, Chapter 108, Statutes of 2000, required the DSS to develop a plan to implement the recommendations of the SB 2030 study. **Among the actions proposed by a workgroup formed to advise the department on implementation was the adoption of minimum caseload standards and phased-in augmentations to reach the proposed minimum standards** by the 2005-06 fiscal year.

Beginning in 1998, the Legislature and the Administration provided an augmentation to the CWS program to address program under-funding and provide workload relief. Assembly Bill 1656, Chapter 324, Statutes of 1998, authorized an initial CWS program augmentation of \$40 million General Fund. Assembly Bill 1740, Chapter 52, Statutes of 2000 provided an additional augmentation of \$34.3 million General Fund. In 2002-03, then Governor Davis reduced the CWS augmentation by \$17.2 million and reduced CWS program funding by another \$10.8 million for a total reduction in state funding for CWS of \$28 million.

Governor's Budget: The budget funds counties at their 2001-02 funding levels and calculates costs to maintain each county's prior year social worker funding level.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services discuss California's current caseload levels in comparison to the SB 2030 standards and discuss the impact on services of overburdened workers

Budget issue: This is an informational item.

Issue C - Child Welfare Services Redesign

Background: California recently concluded its three-year CWS Stakeholders Group process, which examined California's child welfare services programs and recommended changes. The group released its CWS Redesign report in September 2003. The Redesign outlines a broad long-term plan to improve the child welfare services system. The plan includes the development of partnerships between CWS agencies and community based organizations, as well as efforts to improve access to preventative services and supportive services for families.

The CWS Redesign articulates the Stakeholders' vision for the Child Welfare Services system and discusses strategies to realize that vision. It does not constitute an implementation plan. The Redesign does not outline the law, regulatory and practice changes necessary for implementation. It does not provide an estimate of costs or specify measurable outcomes. Implementation of the Redesign may require changes in state and federal law, as well as regulatory changes, including an expansion of the child welfare activities and services eligible for federal reimbursement and changes to the Child Abuse Central Index system. Redesign implementation may require significant increases in program funding.

Governor's Budget: The budget provides \$5.9 million (\$555,000 General Fund) in the current year and \$19.1 million (\$558,000 General Fund) in the budget year to support various CWS Redesign activities. The funded activities include implementation of differential response, state and county level training; and development of a curriculum for the statewide approach to Safety and Risk Assessment. Sources of funding include TANF, Promoting Safe and Stable Families funds, State Children's Trust Fund and General Fund.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services respond to the following questions:

1. Please describe the CWS Redesign and the current Redesign implementation strategy.
2. Please describe the proposed funding increase, the specific activities to be supported by the funding and the measurable outcomes to be achieved.
3. Has the Department prepared a Redesign implementation plan including necessary changes to state and federal law, costs of implementation and measurable outcomes?

Budget issue: Does the Subcommittee wish to approve the proposed funding increase to support CWS Redesign activities in the current year and the budget year?

Issue D - Program Improvement Plan Funding

Background: Federal law required California to negotiate with the federal government a Program Improvement Plan (PIP) to address system deficiencies identified in the Child and Family Services Review and to improve the state's outcomes. The PIP outlines steps California will take to improve its outcomes; includes timeframes for achieving

improvement; and commits to dozens of specific program performance improvements and thousands of specific action steps.

Since completing PIP negotiations in June 2003, the Department of Social Services and counties have begun to implement the PIP, to complete the required action steps and to work to achieve the required outcomes. The DSS reports that reductions in state operations have made it difficult for the state to complete all required action steps. The DSS is currently seeking federal relief from the volume of required action steps. DSS is not seeking any changes to the specific improvements in outcomes agreed to in the PIP.

Governor's Budget: The budget provides \$8.3 million (\$3.5 million General Fund) in the current year and \$10.6 million (\$749,000 General Fund) in the budget year to support state and county activities associated with the state's Program Improvement plan.

The current year funding primarily supports data clean-up activities. The budget year funding will support recruitment of minority foster homes, funding for training of social workers, and continued support for data activities.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services respond to the following questions:

1. Please describe the Program Improvement Plan and the PIP implementation strategy.
2. Please describe the proposed funding increase, the specific activities to be supported by the funding and the measurable outcomes to be achieved.
3. Please update the Subcommittee on the status of conversations with the federal government to reduce the number of specific action steps required in the PIP.

Budget issue: Does the Subcommittee wish to approve the proposed funding increase to support Program Improvement Plan activities in the current year and the budget year?

Issue F - Child Welfare Outcomes and Accountability System

Background: California has been engaged in the development and implementation of a new system, based on federal performance reviews, to measure specific county outcomes. Assembly Bill 636 (Steinberg) requires California to establish an outcome-based system to evaluate county operations of child welfare services. The new California Child Welfare Outcomes and Accountability System includes web-based reporting of county outcomes, and requires counties to conduct self-assessments and develop system improvement plans. AB 636 will provide unprecedented access to county specific information about child welfare services program outcomes and will yield county specific plans to improve program performance.

Governor's Budget: The budget provides \$3.7 million (\$1.6 million General Fund) in the current year and \$9.5 million (\$3.2 million General Fund) in the budget year to fund Child Welfare Outcomes and Accountability System activities. The increased funding will support county self-assessment data gathering and evaluation efforts,

peer quality case reviews, and county coordinators for completion of county self-assessments and county System Improvement plans. **The budget does not provide new funding to support implementation of county self-improvement plans.**

The budget provides funding for an average of one staff person per county to carry out AB 636 activities. Required activities include completion of county self-assessments, community interactions and development of county self-improvement plans. Counties report that the DSS estimate understates the time needed to complete the required activities and that at least 1.5 full-time equivalent staff are needed. Counties also report that the budget does not provide adequate compensation for the costs of conducting peer-to-peer reviews, which are required by AB 636.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services respond to the following questions:

1. Please describe the California Child Welfare Outcomes and Accountability System and its implementation status.
2. Please describe the proposed funding increase, the specific activities to be supported by the funding, and the measurable outcomes to be achieved.
3. Please describe your funding estimate and the extent to which it is consistent with the level of workload counties are experiencing?
4. How will county self-improvement plans be funded?

Budget issue: Does the Subcommittee wish to approve the proposed funding increase to support AB 636 activities in the current year and the budget year?

Issue G - Child Welfare Services/ Case Management System

Background: Federal and state laws require the state to provide automated case management support to child welfare workers. California accomplishes this goal through the Child Welfare Services Case Management System (CWS/CMS). CWS/CMS has been in operation for seven years. The system is operated by an independent contractor and is based in Boulder, Colorado.

Since 1994, California has received enhanced federal financial participation for CWS/CMS development costs to support the development of an automation system that meets federal Statewide Automated Child Welfare Information System (SACWIS) compliance. Federal rules provide enhanced federal financial participation to states pursuing SACWIS compliance and require states to return enhanced funding if the state does not meet the federal automation system requirements.

California has developed the main CWS/CMS system, which meets 61 of the 87 federally required functionality requirements. The state has been delayed in developing additional components required to be SACWIS compliant. The major components that remain to be developed include performing automated Title IV-E eligibility determinations,

establishing interfaces to Titles IV-A and IV-D, and to Medi-Cal, five requirements regarding financial management and policy guidance, and adoptions case management.

California has not adequately addressed federal concerns regarding the state's maintenance and operations contract for CWS/CMS. In 1997, the federal government and the Departments of Finance and General Services directed the Health and Human Services Agency Data Center (HHSDC) to conduct a competitive procurement for a new contract to pay for the ongoing maintenance and operation activities of CWS/CMS. In 2000, the state began the competitive procurement. The procurement was subsequently cancelled in 2002.

As a result of long-standing concerns, the federal government reduced funding for the maintenance and operation of the Child Welfare Services/Case Management System effective July 2003. The federal government has continued to provide federal funding for system costs but has not participated at the enhanced level of funding.

The reduction in federal financial participation for CWS/CMS created a potential deficiency in the current year of \$55 million. Through subsequent actions the effective deficiency level was reduced to \$6.8 million General Fund. **The LAO estimates that failure to resolve CWS/CMS issues in the budget year may increase project costs by \$20 million.** Additionally, the state may be required to repay the federal government for incentive funding it received in the first three years of CWS/CMS development. The estimated cost for repayment of incentive funds ranges from \$30 million to \$113 million.

The Administration is working with the federal Health and Human Services Agency to address federal concerns and secure continued federal funding for CWS/CMS. According to DSS, the sole source nature of the existing CWS/CMS maintenance and operations contract has emerged as the federal government's principal concern. The Department of Social Services is developing a CWS/CMS plan to meet federal concerns, including competitive procurement of the contract and system development to achieve SACWIS compliance. DSS staff will be meeting with federal HHS staff to discuss the new plan at the end of March. The state's options remain to continue working towards SACWIS compliance or to acknowledge that the system will not meet SACWIS requirements and negotiate repayment of incentive funds.

The Legislative Analyst's Office analysis of the 2004-05 Budget Bill reports on the status of CWS/CMS and analyzes the options available to the Legislature. **The LAO outlines the following options available to California:**

Meeting Federal SACWIS Requirements. To meet SACWIS requirements, the state will need to implement a number of changes to the current CWS/CMS system. The federal government believes these SACWIS requirements offer significant program benefits to states' CWS programs. However, the administration has not completed an analysis of the benefits from the SACWIS functions from the state's perspective. We do know, however, that the required changes to CWS/CMS would ultimately increase state costs by tens of

millions of dollars. This alternative likely would also result in (1) restoration of increased federal funding and (2) avoidance of the one-time repayment of the incentive funding.

Non-SACWIS System. Alternatively, the state could declare CWS/CMS a non-SACWIS system. According to the federal government, the benefits of a non-SACWIS system are: (1) elimination of the need for SACWIS modifications, (2) more state control over changes and enhancements to the system, and (3) less federal review and oversight. A non-SACWIS system would allow the Legislature more discretion in setting the priorities for the CWS/CMS system. If the state chose to declare CWS/CMS a non-SACWIS system, the state would continue to receive a lower level of federal funding. In addition, the state could face the one-time repayment costs for the incentive funding.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services respond to the following questions:

1. Briefly describe the existing CWS/CMS system, the extent to which California is compliant with SACWIS, and the status of federal funding for the CWS/CMS system.
2. Discuss the status of negotiations with the federal government regarding CWS/CMS.
 - What are the federal government's concerns regarding CWS/CMS?
 - What is the federal government requiring from California to provide any federal funding for CWS/CMS? What is required to receive enhanced federal funding?
3. What are the state's options regarding CWS/CMS?
4. Has DSS completed a cost benefit analysis of its CWS/CMS options?
5. Has the state completed an analysis of the programmatic benefits of becoming SACWIS compliant?
6. Please describe the parameters of the CWS/CMS plan that DSS plans to discuss with the federal government at the end of March.

Budget issue: Does the Subcommittee wish to take any actions regarding CWS/CMS and the proposed level of project funding?

Issue H - Promoting Safe and Stable Families (PSSF)

Background: The federal government funds a specific program within the child welfare services system to provide community based, family centered services that focus on supporting and preserving families, protecting children and preventing child abuse and neglect.

Governor's Budget: The budget reflects an increase in PSSF funding of \$4 million, for a total of \$61.7 million in the budget year. The budget proposes to fund some CWS Redesign activities with PSSF funds.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services describe the current process for allocation of PSSF funds and the criteria that guide expenditures of PSSF dollars retained by the state.

Budget issue: Does the Subcommittee wish to approve program funding as budgeted?

4. Foster Care Program

Background: The Foster Care program provides support payments for children in out-of-home care as a result of a judicial order or a voluntary placement agreement. The program provides payment to foster care service providers, including foster homes, foster family agencies, residential treatment for seriously emotionally disturbed children and group homes. The program is administered by the Department of Social Services and operated by county welfare departments. It serves an estimated average of 78,700 youth a month, reflecting a 1.2 percent increase in caseload in the budget year.

Governor's Budget: The budget provides \$1.8 billion (\$462.8 million General Fund) to support the foster care system. The budget makes the following funding assumptions:

Issue A - Foster Care Program – Compensation for County Services

Governor's Budget: The budget provides \$101.3 million to support county delivery of Foster Care Program services. This amount reflects a \$3.1 million increase due to increased program caseload and workload associated with implementation of the *Rosales v. Thompson* court decision. The proposed compensation for county services is based on 2000-2001 county costs and does not include a cost-of-doing business adjustment.

Counties estimate that maintaining county funding for Foster Care Administration at the 2001-02 level amounts to a \$28.3 million reduction.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services briefly answer the following questions:

1. Briefly discuss the proposed funding level for Foster Care Administration.
2. What has been the programmatic impact of maintaining funding for the Foster Care program at the 2000-01 cost level?
3. As many county activities are statutorily required, what flexibility do counties have to realize efficiencies and adjust their workload to reflect the actual level of funding?
4. Is the Department proposing to provide any relief to counties commensurate with the suspension of cost of doing business adjustments?

Budget issue: Does the Subcommittee wish to adopt the proposed level of funding for Foster Care Administration costs?

Issue B - Implementation of *Rosales v. Thompson*

Background: The Ninth Circuit court decision in *Enedina Rosales and the California Department of Social Services v. Tommy G. Thompson* (321 F.3d 835) significantly expanded eligibility for federal foster care funding to thousands of low-income relatives caring for foster children. Under *Rosales*, a child who lived, at any time during the six months prior to removal or at the time of removal with a relative, is federally eligible for foster care because only the child's income will be taken into account when conducting the means test. Prior to the court decision, relatives who were caring for children who were deemed ineligible for the federal foster care program were provided with a California Work Opportunity and Responsibility to Kids (CalWORKs) child-only grant of about \$350 per month. Under the new eligibility rules, families will receive a regular foster care grant (an average of \$678 per month).

The court recently ruled that the *Rosales* decision applies retroactively back to December of 1997 in cases that were open on March 3, 2003. Relatives, if found otherwise eligible for a foster care payment, will receive a payment for the difference between the CalWORKs grant and the Foster Care grant for the relevant months back to 1997. The federal government is currently developing instructions to implement the *Rosales* decision. The instructions will establish a process to determine if relatives are eligible for retroactive payment and to ascertain the appropriate level of payment.

Increased General Fund costs and savings in Temporary Aid for Needy Families funds resulting from this recent court ruling will be reflected in the May Revision.

Governor's Budget: The budget increases foster care funding by \$36.7 million (\$7.5 million General Fund) to implement the *Rosales v. Thompson* court decision. The budget reflects an offsetting reduction in CalWORKs costs of \$14.1 million in the budget year.

The Legislative Analyst's Office comments in her analysis that the Governor's Budget understates General Fund savings associated with implementation of the *Rosales* decision. The LAO estimates that a modest investment in foster care redetermination activities will allow California to claim additional federal funding, resulting in net General Fund savings of \$5.3 million due to reduced Foster Care and Adoptions Assistance Payment costs.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services briefly answer the following questions:

1. Briefly describe the court ruling in *Rosales v. Thompson* and its impact on federal foster care and Adoption Assistance Payment eligibility.
 2. Briefly discuss the implementation status of the *Rosales* decision.
 3. Please discuss your estimate of the impact on the General Fund and TANF of *Rosales*.
 4. How will *Rosales* impact foster care expenditures and county realignment?
 5. Does the Administration concur with the LAO's estimate of additional savings resulting from the *Rosales* decision?
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Budget issue: Does the Subcommittee wish to adopt the proposed funding for implementation of the *Rosales* decision? Does the Subcommittee wish to adopt the additional General Fund savings identified by the Legislative Analyst's Office?

Issue C - Proposal to Develop and Implement Foster Care Reforms

Governor's Budget: The budget assumes \$20 million General Fund in savings resulting from development and implementation of programmatic reforms that shorten the period of time children spend in foster care. Reforms may include use of performance-based contracts; restructuring of foster care rates; and receipt of a federal waiver that permits use of federal foster care funds for child welfare purposes, including intensive services to keep children with their birth parents.

The Administration will convene the first meeting of stakeholders, including legislative staff, to consider foster care reforms on Friday, March 19th. The Administration will submit its reform proposals to the Legislature as part of the Governor's May Revision.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services describe the process and timeline to develop foster care reforms, as well as briefly discuss the foster care reform proposals being considered by the Administration.

Issue D - Relative Home Assessment

Background: The federal Adoption and Safe Families Act (ASFA) requires that states apply the same licensing standards to both relative provider and foster family homes. Assembly Bill 1695, Chapter 653, Statutes of 2001, establishes state requirements that mirror the federal requirement and mandates that counties conduct an in-home assessment prior to placing a child in the home of a relative or the home of a non-relative extended family member. In addition to the state requirement, federal law requires counties to conduct additional in-home assessments when one or more relatives or non-relative extended family members seek approval to have a related foster child placed with them. During in-home assessments counties evaluate the safety of the home and the ability of the relative to care for the child. Counties are required to visit all willing relatives or non-related extended family members to establish viable placement options.

In 2002, California's licensing practices for relative home providers were challenged in *Higgins v. Saenz*. The State was essentially out of compliance with the federal requirement that licensing standards be the same across foster homes. California negotiated a settlement in the case, which will bring the state into compliance with federal requirements. In addition to the court action, the federal government found California out of compliance with federal law leading to a loss of \$45 million in federal funding. Since November 2001, the state and counties have been working to demonstrate compliance with the federal requirements and achieve restoration of federal funding.

Last year, the Legislature appropriated \$11.8 million to fund relative home assessments. In a related action, the Legislature eliminated the annual licensing visit requirement for facilities licensed by DSS, including foster family homes, and established a new visit methodology. The State will now visit a limited number of facilities on an annual basis. Other facilities will be visited under a random sampling methodology. All licensees will be visited at least once every five years.

The Governor's Budget assumes that relative homes are subject to the new licensing methodology adopted by the Legislature. However, the Department is in the process of developing an All County Letter to require annual licensing visits of relative homes, at odds with the new licensing methodology established by the Legislature. The All County Letter and required annual visits may result in additional oversight of relative homes as compared to foster family homes. The May Revision will likely reflect additional costs associated with the proposed requirement of annual licensing visits to relative homes.

Governor's Budget: The budget provides \$12 million in state and county funds to support these new required relative caregiver home assessments.

The budget assumes that the assessments can be completed in seven hours. Counties report that the average time to complete an assessment is 16 hours, not including travel time. Counties argue that the budget provides insufficient funding to complete the relative home assessments required by state and federal law.

Subcommittee request and questions: The Subcommittee has requested that the Department of Social Services answer the following questions:

1. Briefly describe the required relative home assessments, the proposed funding and whether the assumed time frame for completing home assessments reflects what counties have been experiencing.
2. How has the relative home assessment process affected foster care placements?
3. To what extent are relatives found ineligible to care for foster children following the assessments? What factors tend to make relatives ineligible to provide a placement?
4. Please discuss the proposed All County Letter, including the reason for its issuance and the estimated costs of conducting annual licensing visits to relative providers.

Budget issue: Does the Subcommittee wish to approve this item as budgeted?

Issue E - TANF Fund transfer to Foster Care.

Governor's Budget: The Governor proposes to transfer \$56.6 million in Temporary Aid for Needy Families funds from CalWORKs to the Foster Care program to offset General Fund support for the Foster Care program. California's continued use of TANF funds to support non-CalWORKs programs is seriously limiting the state's ability to continue to afford the CalWORKs program without additional General Fund spending.

Subcommittee request: The Subcommittee has requested that the Administration discuss the impact to the CalWORKs program of transferring TANF funds to Foster Care and the extent to which such transfers increase pressure to make reductions within CalWORKs.

Budget issue: Does the Subcommittee wish to approve the proposed fund transfer?

Issue F - Supportive Transitional Emancipation Program (STEP)

Background: Established in January 2002, the STEP provides financial assistance to emancipating foster youth up to age 21 who are participating in an educational or training program. The program operates as a county option. Given fiscal constraints at the local level, no county to-date has opted to implement STEP.

Governor's Budget: The budget proposes to eliminate the STEP program for General Fund savings of \$38,000 in the current year and \$338,000 in the budget year.

Subcommittee request: The Subcommittee has requested that the Department of Social Services briefly describe the budget proposal and its effect on emancipating foster youth.

Budget issue: Does the Subcommittee wish to adopt the proposed elimination of STEP?

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Issue H - Group home affiliated leases

Background: Since 1997, the Department of Justice, under contract with the Department of Social Services, **had been required to review group home affiliated lease agreements**, also known as self-lease agreements, to determine whether the lease is fair and reasonable. The DOJ review sought to assure procedural correctness and financial propriety, as well as continued federal financial participation for group home self-lease agreements.

The 2003-04 budget proposed to eliminate the DSS contract to compensate the DOJ for completing the statutorily required review of group home self-lease agreements for General Fund savings of \$75,000. The DOJ opposed the elimination of the DSS contract and argued that funding for the contract should be restored or the requirement that DOJ review group home self-lease agreements should be eliminated.

Senate Bill 24x, Chapter 7, Statutes of 2003, prohibited, commencing July 1, 2003, any group home with an affiliated lease from being eligible for an AFDC-foster care rate, unless the home had an approved self-lease agreement. The bill eliminated the requirement that the DOJ review and approve group home affiliated lease agreements.

The California Alliance of Child and Family Services is seeking a technical clarification to last year's legislation. The Alliance proposes to eliminate the term "affiliated lease," and substitute the term "self-dealing transaction," as defined in the Corporations Code.

Subcommittee request: The Subcommittee has requested that the Department of Social Services comment on the Alliance proposal.

Budget issue: Does the Subcommittee wish to adopt the proposed legislation?

5. Adoption Assistance Program

Background: Since 1982, the **Adoption Assistance Program (AAP)** provides financial support to families adopting children who are considered difficult to place, primarily foster children with broadly defined special needs. The AAP program seeks to assist states and counties in achieving permanency for foster children. The program is supported by federal, state and county funds, and is administered locally by counties.

Federal law establishes the AAP program, and authorizes states to define "special needs" for purposes of establishing eligibility and to determine the level of AAP payment provided to adoptive parents. Federal law limits the AAP payment to the age-related foster family home care rate for which the child would otherwise be eligible. To receive AAP, the child must have been otherwise eligible to receive Foster Care aid.

State law defines special needs for purposes of establishing eligibility for AAP to include a mental, physical, medical or emotional handicap; race, color or language barriers to adoption; age of over three years; member of a sibling group; or adverse parental background, such as drug addiction or mental illness. **Under the state's definition, virtually all children being adopted out of the foster care program are eligible for and receive AAP benefits at least until the age of 18.** Most children adopted out of the foster care system qualify for AAP, regardless of whether or not they would otherwise be a hard to place child, because any child removed from his or her parents and placed in foster care, by definition, must have had an adverse parental background. Under California's definition, a healthy infant would be considered as hard to place as would three teenage, physically, or developmentally disabled siblings. Both types of children would be eligible for monthly AAP payments until they reach the age of 18.

Adoptions Assistance is not a means-tested program. Federal law prohibits states from means testing AAP eligibility but requires that the family's circumstances be taken into consideration when determining the level of payment. According to the Legislative Analyst's Office the federal definition allows the income of the family to be used in determining the grant amount as long as it is done in conjunction with the needs of the child. As a publication of the United States House of Representatives Committee on Ways and Means states, "No means test can be used to determine eligibility of parents for the program; however, States do consider the adoptive parents' income in determining the payment." The LAO's review of other state programs found that in 2000-01, 20 states used income in some capacity to determine the grant amount paid to the adoptive family.

According to 2000-01 data, the typical child adopted through the DSS Agency Adoption program is white, experienced an adverse parental background, and did not have a sibling

placed with them. They began living with their adoptive family at 2 years old and were adopted when they were 5 years old. The adoptive family is a white, married couple, with some college education. They were not related to the child and had other children in their home. The median age for the adoptive mother and father was 44 years old. Their median gross annual income was \$41,000 and they received adoptions assistance benefits.

Governor's Budget: The budget provides \$576.9 million (\$247.8 million General Fund) for AAP grant payments. It provides an increase of \$57.8 million total funds for the AAP program. The budget assumes that the estimated caseload will be 67,700 in the budget year, a 10.5 percent increase over current year. The budget does not provide cost-of-living adjustments for this program.

The AAP caseload has increased by an average of more than 13% each of the last three years. **Program costs have increased by 154 percent since 1998.** The average AAP grant has increased substantially since 1995-96. During this period, the average grant for AAP grew from \$447 for federally eligible children and \$459 for state-only children, to an estimated \$704 and \$756, respectively. This represents increases of 58 percent and 65 percent, or approximately 30 percent more than the rate of inflation.

Increases in grants are at least in part the result of the *Mark A. et al v. Davis* court settlement. This settlement limited the ability of counties to negotiate with adoptive parents for grant amounts that would be lower than the maximum amount that the child would have received in Foster Care. According to the LAO, the *Mark A.* settlement limits the flexibility of the administration and counties, but is not binding for the Legislature.

The Legislative Analyst's Office analysis of the 2004-05 Budget includes a comprehensive analysis of the AAP program and its rate of caseload and funding growth. **The LAO makes the following recommendations to the Legislature to contain growth in the program and target available services to a more narrow population:**

Set Grant Levels to Recognize Adoptive Parents' Financial Responsibility. While states may not pay more than the maximum amount that the child would have received in Foster Care, there is nothing that precludes California from capping the amount of the AAP grant at a level below the maximum foster care rate. If the state capped the basic rate at 75 percent of the foster care rate, prospectively, the state would save \$600,000 in 2004-05 on new children entering the system and \$5.5 million in 2005-06 compared to the current program. Savings would increase annually as the pre-AAP reform children age-out of the program and new children are enrolled at the 75 percent level.

Better Tie Benefit Levels to Need. Currently, parents have the option of renegotiating the AAP grant they receive for their child at least once every two years. Children receive an average of \$45 per month more as they age in the program, starting at \$425 for 4 year olds and under, and ending at \$597 for children over 14 years old. Because age-driven grant increases are not based on a demonstration of need, the LAO recommends they be eliminated and that the state narrow the reasons for grant increases to include increased

costs due to physical, mental, emotional, or medical problems directly tied to child's birth parents or pre-adoptive circumstances. The reform would save the state approximately \$900,000 in 2004-05 and \$2 million in 2005-06.

Narrow Definition of Special Needs to Children Likely to Benefit the Most. The inclusion of adverse parental background as part of the definition of special needs means that virtually all children adopted from the foster care system are eligible for AAP assistance. Assuming that a small percentage of the children who qualify for AAP due to having an adverse parental background would qualify under another category, the incoming AAP caseload could be reduced by about 25 percent by eliminating the adverse parental background category. Parents would remain eligible for deferred benefits if a child subsequently develops a physical, mental, emotional, or medical problem that can be traced directly to his or her birth parents or pre-adoptive circumstances. This narrowing of the definition of special needs would save the state approximately \$500,000 in 2004-05, growing to \$4 million in 2005-06.

Adoption agencies have written in opposition to the LAO's recommended changes to AAP. The agencies argue that changes to AAP will increase barriers to the adoption of foster children and reduce permanency for foster children. The Subcommittee has not received conclusive evidence or data to indicate whether changes to AAP will negatively affect the adoption rates of foster children.

Subcommittee request and questions: The Subcommittee has requested that the Legislative Analyst's Office answer the following questions:

1. Discuss your analysis of the Adoptions Assistance Payment program, including the program's rate of caseload and funding growth.
2. Briefly discuss federal requirements relative to AAP eligibility and level of payment.
3. Please discuss your recommendations, including how they compare to AAP programs in other states.
4. How will your recommendations affect the foster children adoptions' rate?

The Subcommittee has requested that the Administration discuss the purpose of AAP grants, describe the other state funded services that children adopted from the foster care system are eligible for, and provide their response to the LAO's recommendations.

Budget issue: Does the Subcommittee wish to consider changes to the AAP program including the changes recommended by the LAO? Does the Subcommittee wish to approve funding for AAP as budgeted?

6. Proposed Workload Relief Associated with Reductions in State Operations

Background: Control Section 4.10 of the Budget Act of 2003 authorizes the administration to reduce state operations appropriations, abolish positions, and reallocate funds among items of appropriation to achieve budget savings in the current year.

Specifically, Control Section 4.10 requires that the Director of Finance abolish as many as 16,000 positions throughout state government, reduce individual state operations appropriations by up to 15 percent and achieve \$1 billion in savings.

The Department of Social Services' contributed \$5.9 million in General Fund savings to the Control Section 4.10 reduction. It eliminated a total of 330.5 positions across department divisions. The Governor's Budget assumes that the reductions to state operations will be ongoing and proposes a series of statutory changes to permanently reduce the department's workload. The proposed statutory changes include:

Issue A - Eliminate the Child Care Advocate Program

Background: Current law requires the Department of Social Services to establish a child care ombudsman program. The program provides information to the general public on child care licensing standards and regulations, serves as a liaison to local entities and child care providers, disseminates information on the state's licensing role, and investigates complaints.

Governor's Budget: The Governor's proposed legislation to implement the Budget Act makes it optional for the DSS to establish a Child Care Ombudsman program and renames the program as the Child Care Advocate Program.

Subcommittee questions: The Subcommittee has requested that the Department of Social Services report whether it is currently meeting the statutory requirement and discuss how the proposed legislation will impact child safety and enforcement of licensing standards.

Budget issue: Does the Subcommittee wish to approve the proposed statutory changes?

Issue B - Processing of Applications for Trustline Certification

Background: TrustLine is a registry of child care providers who have received a criminal background clearance in California. It considers fingerprint records from the California Department of Justice's California Criminal History System, the Child Abuse Central Index of California, and the FBI Criminal History System. The program is jointly administered by the Department of Social Services and the Child Care Resource and Referral Network. Specifically, the DSS processes applications and grants criminal record clearances, and the Network maintains the Trustline registry.

Governor's Budget: The Governor's proposed legislation to implement the Budget Act shifts the responsibility of receiving Trustline applications and submitting provider fingerprints to the Department of Justice from the DSS to the Child Care Resource and Referral Network.

Subcommittee questions: The Subcommittee has requested that the Department of Social Services report whether it is currently meeting the statutory requirement and discuss

whether the proposal will increase the DSS contract with the Child Care Resource and Referral Network.

Budget issue: Does the Subcommittee wish to approve the proposed statutory changes?

Issue C - State Hearings for Providers Applying for Licensure

Background: Current law establishes a statutory right to an administrative hearing for providers who are denied licensure by the Department of Social Services. Such hearings usually are less time consuming and less costly than a court challenge.

Governor's Budget: The Governor's proposed legislation would eliminate the right to an administrative hearing for providers who are denied licensure by DSS. The Department plans to develop a process within DSS to consider complaints from providers who are denied licensure.

Subcommittee questions: The Subcommittee has requested that the Department of Social Services report whether it is currently meeting the statutory requirement and discuss options available to providers who believe they have been inappropriately denied a license by the state.

Budget issue: Does the Subcommittee wish to approve the proposed statutory changes?

Issue D - Expand Activities Supported by the Technical Assistance Fund

Background: Established in 1995, the Technical Assistance Fund supports the creation and maintenance of licensing staff to provide technical assistance to residential care facilities for the elderly, foster care providers, child care providers and other community care facilities licensed by the Department of Social Services. Licensing fee revenue in excess of \$6 million is deposited in the Technical Assistance Fund and is subject to legislative appropriation.

Governor's Budget: The Governor's proposed legislation would broaden the activities supported by the Fund to include administrative and other licensing activities.

Budget issue: Does the Subcommittee wish to approve the proposed statutory changes?

Issue E - Certification and Monitoring of Out-of-State Group Homes

Background: High profile incidents of abuse and maltreatment of foster youth and the debate ensuing from these incidents triggered Senate Bill 933, a comprehensive legislative reform of the foster care system. SB 933 (Thompson), Chapter 311, Statutes of 1998, instituted a series of reforms designed to improve the quality of care received by foster children in group homes and to increase foster child safety. Specifically, the bill established rigorous licensing requirements for foster care providers and prohibited the

placement of foster youth with unlicensed out-of-state providers. It required that DSS perform initial and continuing inspections of out-of-state group homes, as well as investigate any threat to the health and safety of California children placed in these homes.

Since the enactment of SB 933, the placement of California foster children in out-of-state group homes has declined substantially. According to DSS, a total of three hundred foster children are placed in twelve licensed out-of-state group homes. The children placed in these out of state group homes tend to be served by probation departments, not county social services agencies.

Governor's Budget: The Governor's proposed legislation would eliminate the requirement that the Department of Social Services certify and monitor out-of-state group homes.

Subcommittee questions: The Subcommittee has requested that the Department of Social Services report whether it is currently meeting the statutory requirement and answer the following questions:

1. Will the proposal effectively eliminate out-of-state placement for foster children?
2. How will the proposal affect children currently placed in out-of-state group homes?
3. How will the proposal impact the availability of appropriate placements for foster children?

Budget issue: Does the Subcommittee wish to approve the proposed statutory changes?

Issue F - Eliminate Claimants Rights for Rehearings

Background: Counties, as well as applicants for and recipients of public social services, have a statutory right to request a rehearing when dissatisfied with a decision from an administrative law judge (ALJ) regarding eligibility for or amount of aid or services. The hearings provide the last opportunity within the administrative process to challenge a county decision or ALJ ruling.

Absent hearings, individuals and counties can seek redress through the courts. However, court involvement tends to be more costly and consume more time than administrative processes.

Governor's Budget: The Governor's proposed legislation would eliminate the statutory authority for claimants and counties to request hearings from the Department of Social Services.

Subcommittee questions: The Subcommittee has requested that the Department of Social Services report whether it is currently meeting the statutory requirement and answer the following questions:

1. What mechanisms for dispute resolution will remain available to claimants and counties?
2. How will the proposal affect a claimant's ability to exercise his or her due process rights?
3. Might the proposal result in increased court actions and higher program costs to the state?

Budget issue: Does the Subcommittee wish to approve the proposed statutory changes?

Issue G - CalWORKs Mental Health Pilot Program

Background: AB 444 (Aroner), Chapter 222 Statutes of 2001, authorized counties to participate in a pilot program to cover the costs of CalWORKs mental health employment assistance services as part of a Medi-Cal mental health managed care program. The bill required the Department of Social Services to develop a plan for operation of the pilot program and to report on program implementation to the Legislature during budget hearings in 2005.

Governor's Budget: The Governor's proposed legislation eliminates the requirement that DSS develop a plan for operation of the pilot program and report to the Legislature by 2005.

Subcommittee questions: The Subcommittee has requested that the Department of Social Services report whether it is currently meeting the statutory requirement and discuss how the proposed statutory changes will affect integration of CalWORKs mental health services and services available under the Medi-Cal mental health managed care program.

Budget issue: Does the Subcommittee wish to approve the proposed statutory changes?

Issue H - Group Home Rates

Background: Current law establishes a biennial rate setting process for establishing or revising group home rates and foster family agency rates to reflect changes in costs staffing and level of services provided by the home. Current law also provides for non-provisional program audits of foster care group home programs and requires the Department of Social Services to reimburse providers with less than \$300,000 in federal funding for the costs, up to \$2,500, of completing financial audits conducted as a condition of receiving a rate.

Governor's Budget: The Governor's proposed legislation makes the following changes to state law: (1) imposes a 3-year suspension of the biennial rate-setting requirements applicable to group home programs and foster family agencies; (2) authorizes a 3-year suspension of non-provisional program audits; and (3) removes the requirement for the department to reimburse certain providers for audit costs.

Subcommittee questions: The Subcommittee has requested that the Department of Social Services report whether it is currently meeting the statutory requirement and discuss how the proposed statutory changes will impact provider participation in the foster care program. The Subcommittee has also requested that the Department discuss the impact to foster care costs of providing an announced suspension of program audits.

Budget issue: Does the Subcommittee wish to approve the proposed statutory changes?
